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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,495	06/15/2000	ANDREW FRANCIS KIRBY	470044.403	6663

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EXAMINER
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EGWIM, KELECHI CHIDI

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 06/18/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/529,495

Applicant(s)

KIRBY ET AL.

Examiner

Dr. Kelechi C. Egwim

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 7-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Group I, claims 1-6 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the present invention is not anticipated by the prior art and that, in fact, at least one special technical feature, the particular class of alternating copolymer disclosed and claimed, links all of the pending claims 1-51. This is not found persuasive because as shown below, the prior art anticipates, or at least obviates, the dispersed formulation comprising the alternating copolymers.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 7-51 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The "first comonomers" in claim 1 are defined as  $\alpha,\beta$ -unsaturated oxyacids or anhydrides, while claim 5, which depends from claim 1, defines the first comonomer as including various esters, amides and imides, which do not read on  $\alpha,\beta$ -unsaturated oxyacids or anhydrides. This renders claim 5 indefinite.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson et al. (USPN 4,102,667).

In the abstract, col. 2, lines 23-38 and col. 4, lines 20-26, Robinson et al. teach aqueous dispersion/suspensions prepared by suspending (insoluble) agrochemicals and an alternating maleic acid/anhydride copolymer with a conjugated diene such as butadiene and/or isoprene (col. 3, lines 6-8).

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

8. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kataoka et al. (JP 58131903).

In the abstract, Kataoka et al. teach aqueous compositions prepared by dispersing insoluble agrochemicals with water-soluble salts such as styrene/maleic anhydride and styrene/isobutydiene/maleic anhydride in water. While Kataoka et al. do not expressly disclose the styrene/maleic anhydride polymers to be alternating, styrene/maleic anhydride and styrene/isobutydiene/maleic anhydride polymers would inherently be alternating due to the reactivity of the electron donating styrene or isobutydiene monomers in combination with the reactivity of the electron acceptor maleic anhydride monomers. (See col. 1, lines 15-29 of USPN 3,864,319). As is well known in the art, one cannot copolymerize these electron donators with these acceptors without resulting in essentially a 1:1 alternating copolymer.

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

9. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kataoka et al. (JP 02111703) or Nabeya et al. (JP 06009302).

In the abstracts, each of Kataoka et al. ('703) and Nabeya et al. individually teach aqueous suspensions formed by dispersing insoluble agrochemicals with water-soluble salts such as styrene/maleic anhydride copolymer or isobutydiene/maleic anhydride copolymer in water.

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

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10. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Narayanan et al. (USPN 5,476,662).

In col. 1, lines 55-60 and col. 3, lines 37-48, Narayanan et al. al. teach aqueous dispersions formed by dispersing a formulation comprising insoluble agrochemicals (pesticides), and maleic acid/methyl vinyl ether alternating copolymer dispersants in water.

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (703) 306-5701. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.



KCE  
June 12, 2002